

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

MATT FURIE,)	
)	
Plaintiff,)	
)	Case No. 4:17-cv-00828-HFS
v.)	JURY TRIAL DEMANDED
)	
JESSICA LOGSDON,)	
)	
Defendant.)	

JOINT PROPOSED SCHEDULING ORDER AND DISCOVERY PLAN

Pursuant to Rules 16(b) and 26(f) of the Federal Rules of Civil Procedure, Local Rules 16.1 and 26.1, and Judge Sachs' Order of November 2, 2017 (Doc. 12), the parties met and conferred on November 20, 2017. The parties hereby submit the following Joint Proposed Scheduling Order and Discovery Plan.

NATURE OF THE CASE

Plaintiff's Proposal:

Plaintiff Matt Furie ("Plaintiff") created the character and image of Pepe the Frog, which is a registered copyrighted work and subject to multiple other pending copyright applications before the U.S. Copyright Office. Plaintiff alleges that Defendant Jessica Logsdon ("Defendant") copied Pepe the Frog in images she displays, offers for sale, and sells on the Internet, among other locations. Plaintiff seeks damages and a permanent injunction preventing Defendant from displaying, offering for sale, or selling copies of Pepe the Frog.

This action was filed on October 3, 2017.

Defendant's Proposal:

Jessica Logsdon (“Defendant”) offers that “NATURE OF THE CASE” is not germane to this filing. By way of further answer, Defendant avers that Matt Furie (“Plaintiff”) initiated a DMCA takedown notification on September 15, 2017 against Square, Inc. and Defendant’s website www.jessicalogsdon.com and that this action resulted with the removal of 35 of Defendant’s original artworks on October 4, 2017. Case No. 4:17-cv-00828-HFS arises from Defendants filing of a counter-notification to the DMCA action initiated by Plaintiff.

PROPOSED SCHEDULING ORDER

1. Any motion to join additional parties shall be filed on or before March 20, 2018.
2. Any motion to amend the pleadings shall be filed on or before March 20, 2018.
3. The deadline for the completion of fact discovery will be June 18, 2018.
4. Expert disclosures pursuant to Federal Rule of Civil Procedure 26(a)(2) shall be made by April 19, 2018. Rebuttal expert disclosures shall be made by May 21, 2018.
5. All dispositive motions will be filed on or before July 18, 2018. Opposition briefs shall be filed on or before August 8, 2018. Reply briefs shall be filed on or before August 22, 2018.
6. Plaintiff anticipates the trial in this matter will last 2 to 3 days. Defendant anticipates the trial in this matter will last 4 to 6 days.
7. The parties suggest September 24, 2018, as a proposed date for trial.

PROPOSED DISCOVERY PLAN

1. Plaintiff served initial disclosures and discovery requests on November 20, 2017.
- (Doc. 13.)

2. The parties do not require any changes to be made in the timing, form, or requirement for disclosures under Federal Rule of Civil Procedure Rule 26(a). The parties anticipate conducting written discovery and depositions on all issues identified in the pleadings. Discovery will be limited to those issues identified in the pleadings.

3. Without conceding the actual or potential relevance of any topic below and without narrowing the scope of discovery regarding the issues raised in the pleadings, one or more parties anticipate conducting discovery regarding the following topics:

- a. Plaintiff's ownership of copyrights in Pepe the Frog;
- b. Defendant's alleged copying of Plaintiff's copyrights; and,
- c. Plaintiff's alleged damages.

Defendant's proposal:

- d. Plaintiff's motivation(s) for targeting alleged hate speech;
- e. Plaintiff's methods for analyzing fair use prior to issuing DMCA notifications;
- f. Plaintiff's public declarations regarding Pepe the Frog and its use and popularity as a meme;
- g. Plaintiff's assertions of copyright in certain images; and
- h. Plaintiff's alleged losses;

4. The parties propose that all discovery shall be completed by June 18, 2018. This date gives due consideration to the complexity of the case.

Dated: December 18, 2017

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2017, I electronically filed a copy of the foregoing with the Clerk of this Court by using the CM/ECF system which sends notification to all CM/ECF participants of record.

/s/ Carrie Phillips

Attorney for Plaintiff Matt Furie